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The Cost of Free Trade

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THE 2015 DEBATE OVER PRESIDENT Obama's free trade agreements illustrates two fundamental misconceptions about the character of globalization and the associated gains from trade. The first is the idea that the world is growing more economically interdependent and that this is without precedent in human history.[1] Surely the profusion of abundantly available imported goods and services is evidence that the total volume of trade is increasing. This free movement of goods, services, and capital across national boundaries (what I will call "economic interdependence" or "globalization") is made possible by lower costs of transportation and telecommunications and the gradual liberalization of markets as countries negotiate reductions in tariffs, quotas, subsidies, and other nontariff barriers to trade. Thus, globalization appears to be a fact of life, and there is no choice but to continue the process of liberalizing markets if we wish to move forward.[2] In the words of the former U.S. Trade Representative and World Bank President Robert Zoellick, "Globalization is akin to a force of nature."[3] Globalization exerts an inexorable gravitational force, propelling us forward at an accelerating rate. This idea of what economic interdependence means is so deeply ingrained in our consciousness that it rarely merits critical examination.

The second misconception that free trade proponents in particular make is that free trade, like a rising tide, lifts all boats.[4] Proponents of free trade argue that it will also reduce income inequality, both between and within countries.[5] Furthermore, it is widely accepted that U.S. trade statutes, the entire structure of the World Trade Organization (WTO), and the governing international rules

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and regulations known as the General Agreement on Tariffs and Trade (GATT) are all premised on these gains from trade.

These two misconceptions—that globalization is unprecedented, accelerating, and predetermined and that trade benefits everyone—form the central justifications for negotiating free trade agreements. In fact, there is little evidence to support either of these assumptions. When we begin to scrutinize them more closely, we find that their application leads to an international legal structure that routinely undermines national standards for protecting workers and the environment. I do not mean to suggest that international trade is a bad thing. In fact, under the right circumstances global trade can increase competition and give consumers a wider choice of goods and services at lower prices. Instead, I argue that it is possible to reform our trading system in order to both increase competition and raise regulatory standards to benefit developing as well as industrialized countries.

Is Globalization Predetermined?

The first set of questions to ask is whether globalization is increasing, and if so, whether this increase is natural, inexorable, and unprecedented. It is true that the volume of trade in goods and services has increased dramatically over the last two decades of liberalization—but is that evidence of greater economic interdependence or merely of greater prosperity? And regardless of the direction of globalization, is the process predetermined by exogenous factors, or is it contingent on national policies?

In order to answer these questions, one must first examine the degree of economic interdependence, or globalization, between nations. One method to determine that would be to look at what portion of a country's gross domestic product (GDP)—the total value of all goods and services produced in a year—is represented by imports or exports. If the proportion of imports and exports relative to a nation's overall economic output grows over time, this would indicate that a country's dependence on foreign trade is increasing.

Figure 1 represents the total value of world trade as a proportion of world GDP from 1960 to 2013. As expected, the rising slope of the graph since the creation of the WTO in the 1990s confirms the assumption that the world economy as a whole is becoming more dependent on trade.

Figure 1

This observation is even more dramatically demonstrated by Figure 2, which represents the total value of imports and exports as a proportion of the GDP for China. Before the opening of China in the 1970s, the Chinese economy was completely centralized; it was owned and operated by the state and unable to compete in world markets. Beginning in the 1970s, the rapidly rising slope of Figure 2 depicts China's increased dependence on trade. This slope grows steeper after 2001, the year in which China joined the WTO. In short, this graph confirms the general impression of increasing economic interdependence.

Figure 2

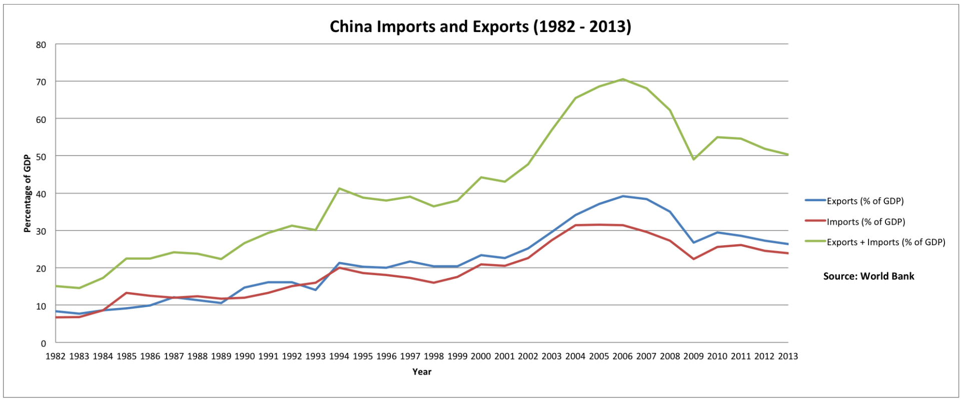
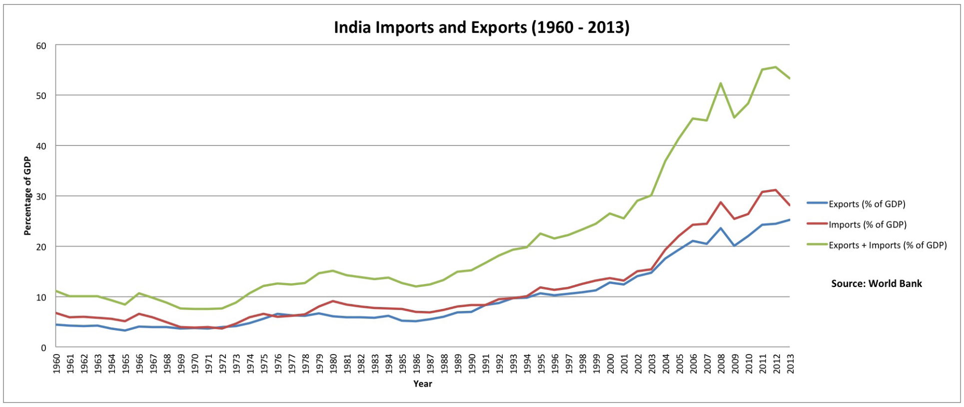


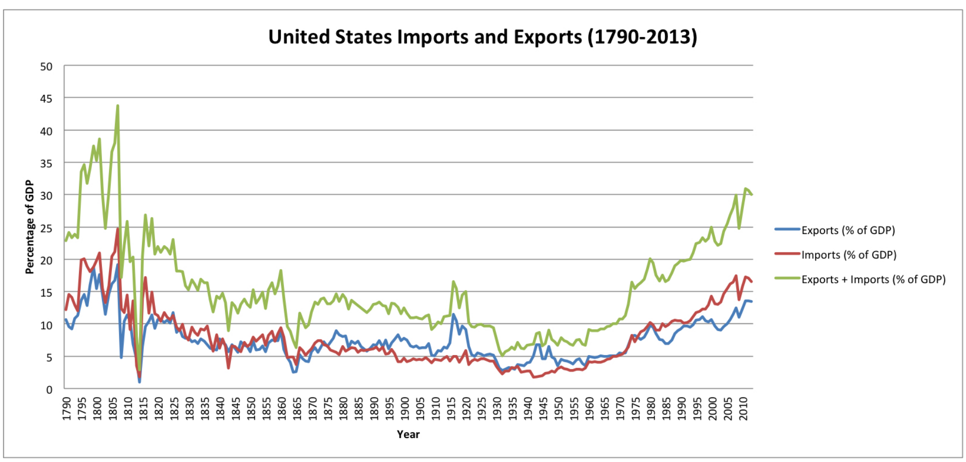
Figure 3 represents the total value of imports and exports as a proportion of India's GDP. India had a highly protected domestic market through the 1980s. Here again, we see a rapid increase in the degree of economic integration; during this period, India lowered smaller tariff and nontariff barriers, reduced subsidies, welcomed foreign investment, and privatized state-owned industries.

Figure 3



But what is true for China, India, and the world as a whole is not necessarily true for every country. In the United States, for example, trade as a proportion of GDP has risen and fallen many times over the nation's history, as Figure 4 shows. In 2014, the total value of U.S. exports and imports was slightly more than 25 percent of total GDP. By contrast, circa 1806, imports and exports totaled nearly 45 percent of total GDP based on U.S. Commerce Department estimates. This is not surprising when one considers that in the early nineteenth century, the United States, like many developing countries today, depended on selling raw materials for manufactured imports. The peaks and valleys on this graph represent changes in the U.S. economy and trade policy.

Figure 4



While many developing or recently industrialized countries such as India share a graph similar to China's, most mature economies more closely resemble the United States' graph. For example, Figure 5 shows the total value of imports and exports for the United Kingdom as a proportion of its GDP. We are accustomed to thinking of the United Kingdom as one of the world's most open economies and a major player in world trade throughout modern history. In fact, the country's degree of economic interdependence has shifted radically over time, often in response to specific government policies and global economic events. Trade today is as important a component of the United Kingdom's GDP as it was during the 1920s, when the country was regaining its economic strength following the devastation caused by World War I.

Figure 5

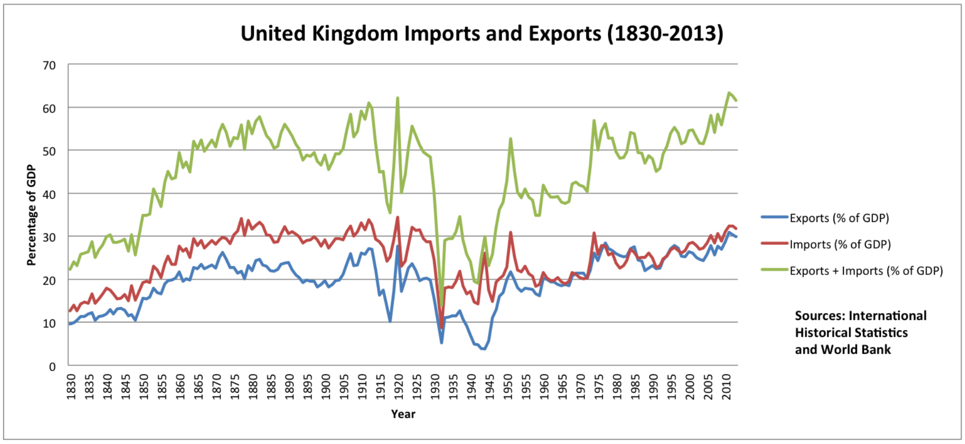
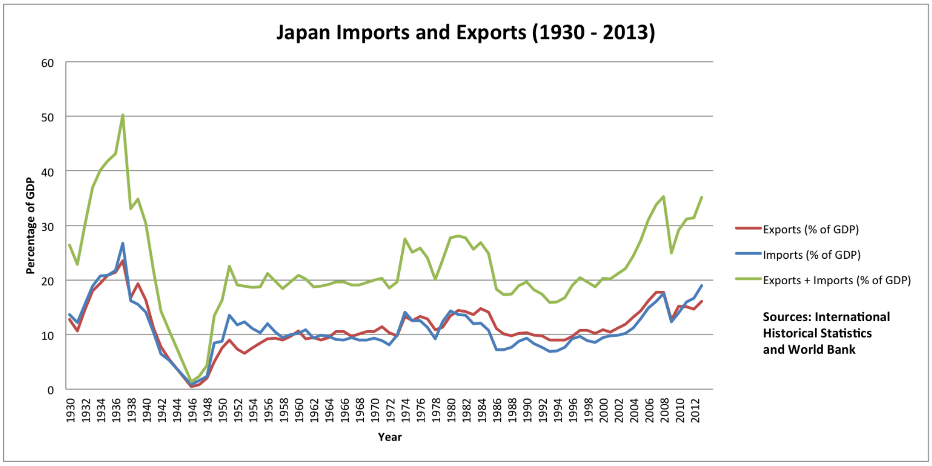


Figure 6 tracks Japan's economic interdependence from the 1930s to the present. It shows that Japan's economy was far more interdependent before World War II than it is today, even though we are accustomed to thinking of Japan as another major trading power.

Figure 6



What these graphs suggest is that the upward trend in total world trade as a percentage of the world's GDP is due largely to the liberalization of China and India, two of the world's largest economies. But that trend does not necessarily hold true for most other countries—even leading market economies such as the United States, the United Kingdom, and Japan. By examining these graphs, we can infer that there is nothing natural or inevitable about the long-term rise in interdependence. Rather, economic interdependence is a historically contingent process that rises and falls, reflecting changes in global economic conditions and the specific policies of individual countries. While technological changes in telecommunications and transportation have increased the opportunity for trade, these graphs demonstrate that the flow of goods and services is not necessarily increasing as a proportion of most countries' GDP.[6] In other words, contemporary globalization is not predetermined. Once we discard the idea that globalization is predetermined, we can unmask the underlying policy trade-offs that proponents of these agreements do not acknowledge: Free trade has both positive and negative consequences for our economy and our environment.

The Gains from Free Trade

Proponents of free trade agreements—such as the Trans-Pacific Partnership (TPP) between 11 Pacific Rim countries and the European Union's Transatlantic Trade and Investment Partnership (TTIP)—argue that free trade benefits everyone.[7] This argument, of course, derives from the nineteenth century–theory of comparative advantage, which, as first proposed by David Ricardo in 1817, holds that if in the absence of trade relative prices differ between two perfectly competitive market economies, then both sides will gain and neither will lose by trading at an intermediate world price.[8] The theory predicts that in the near term, free trade will both lower prices for consumers and increase total worldwide production by encouraging countries to specialize in the production of goods and services in which they enjoy a comparative advantage. This prediction rests on the assumption that prices reflect the actual cost of production, so that a country with the lowest relative price of producing a particular good is presumed to have a comparative advantage in producing that good. This assumption only holds true in a perfectly competitive market where sellers must compete by cutting their prices to the lowest level they can afford while still covering their costs. In the absence of perfect competition,

Economic interdependence is a historically contigent process that rises and falls.

the price of a good may be significantly higher than the actual cost of production, and the market will have no way to determine a country's comparative advantage. In that case, free trade will not necessarily lead to near-term gains.

Perfect competition requires four conditions: there must be many buyers and sellers so that no one of them can control prices; goods must be homogeneous or easily substitutable so that consumers will select goods based solely on price rather than based on where the good is produced or who sells it; there can be no barriers to other potential competitors entering the market; and everyone must have perfect knowledge of who sells what at the best price.

Obviously, the vast majority of goods and services traded on world markets today are not traded in anything remotely resembling perfect competition. Monopolies, oligopolies, cartels, state-trading enterprises, and parastatal organizations dominate the markets for a large proportion of goods and services. Most consumer goods and services, including pharmaceuticals, automobiles, electronics, clothing, films, music, medical care, and software, are not homogenous. They are protected by intellectual property rights that prevent genuine competition. Furthermore, advertisers spend billions to convince consumers that their products can be differentiated from those of their competitors. Professional licensing, educational qualifications, regulations, patents, and capital requirements all operate as barriers to entry for many fields, including professional services, banking, insurance, transportation, and heavy manufacturing. Finally, the sheer size and complexity of markets makes it difficult, if not impossible, to determine who is selling what at the best price.

Without perfectly competitive markets, the price signal mechanism does not work effectively. As a result, trade does not necessarily lead to a more efficient allocation of productive resources and an increase in wealth worldwide. In fact, trade can exacerbate distortions in domestic economies, making countries worse off than they would otherwise be in the absence of trade. This insight is neither original nor controversial among mainstream economists, but somehow political elites have ignored the economic literature questioning the applicability of the theory of comparative advantage.[9]

The Sunk Costs of Free Trade

Against these gains from free trade, we have to consider its costs. Import competition can drive domestic industries out of business. Free traders would argue that if more cost-efficient textile factories overseas outcompete the U.S. textile industry, U.S. workers and capital tethered to the less efficient industry will be free to move to other more productive industries, like computer software. The result, by this logic, is a net gain in world production. This is what the Austrian economist Joseph Schumpeter called "creative destruction."[10]

Of course, in the real world, productive resources do not all shift smoothly from one industry to another. Mechanical looms cannot produce computer software, and workers who have spent 20 or 30 years weaving and dying textiles lack the qualifications for computer engineering. Factories and equipment are abandoned; unemployed workers lose self-esteem; families suffer; governments incur more expenses administering unemployment benefits and social welfare; economic stress causes illness, divorce, addiction, and delinquency; crime soars, tax revenues plummet, and whole communities, like the once prosperous city of Detroit, suffer the consequences.

We cannot determine a priori whether the near-term gains from trade exceed the sunk costs. Most economic studies indicate that the near-term gains to an industrialized economy from a free trade agreement are relatively small, perhaps on the order of 0.1–1.5 percent of GDP.[11] For example, one recent study estimated that the proposed Trans-Pacific Partnership would increase U.S. GDP by only 0.13 percent.[12] Another study, prepared for the European Commission, found that the Transatlantic Trade and Investment Partnership would yield about a 0.60 percent growth in GDP for both the EU and the United States.[13] These gains are so marginal that they are easily obscured by other factors: for example, a growth rate of 0.60 percent may result from shifts in interest rates or bad weather.[14] Moreover, any estimates of the gains from increasingly liberalized trade are based on econometric models, which often depend on inadequate data and fluctuating assumptions, especially in the service sector, which comprises the largest component of U.S. exports.[15]

Near-term gains from trade of less than 1 percent may not be sufficient to compensate for sunk costs. Over the long run, the spur of foreign competition, the growth of economies of scale due to access to export markets, and the range of consumer choices may create what economists call "dynamic gains" from trade—gains that probably will exceed the sunk costs. But these dynamic gains are difficult to measure and do not necessarily accrue to those whose wages and communities suffer from import competition. Long-run gains may be significant, but as Keynes reminded us, "in the long run we are all dead."[16]

The Impact of Free Trade on Workers

U.S. labor unions generally oppose free trade agreements out of fear that U.S.

workers cannot compete against the low wages and working conditions of foreign workers. The average hourly compensation earned by a U.S. worker in manufacturing in 2012 was $35.53. By comparison, the average wage paid to manufacturing workers in Mexico was $6.48; in the Philippines, $2.01; in China, $1.36; and in India, $1.17.[17] According to the Bureau of Labor Statistics, the United States lost around six million manufacturing jobs from 2000 to 2009, and more than 42,000 U.S. factories closed in that same time span.[18] Some of these jobs were lost to the recession, but most moved overseas. According to one study, the United States lost 2.7 million jobs to Chinese imports between 2001 and 2010—that represents more than 2 percent of total U.S. workers.[19]

Not all U.S. job losses represent a corresponding gain for workers in Asia or Latin America. Some U.S. jobs are replaced by jobs elsewhere, but foreign factories and foreign workers may be more or less productive, such that the number of jobs created elsewhere is not necessarily equal to the number of jobs lost. Still, no one doubts that globalization has generated millions of overseas jobs in developing economies. These are primarily manufacturing jobs in cities that usually pay higher salaries than agriculture or mining jobs do. Young people from rural areas flock to these jobs, attracted by the wages and the chance to escape the traditional confines of rural life.[20] But these new industries generate social costs as well.

In Asia, Latin America, the Middle East, and North Africa, more than 9 percent of children work.

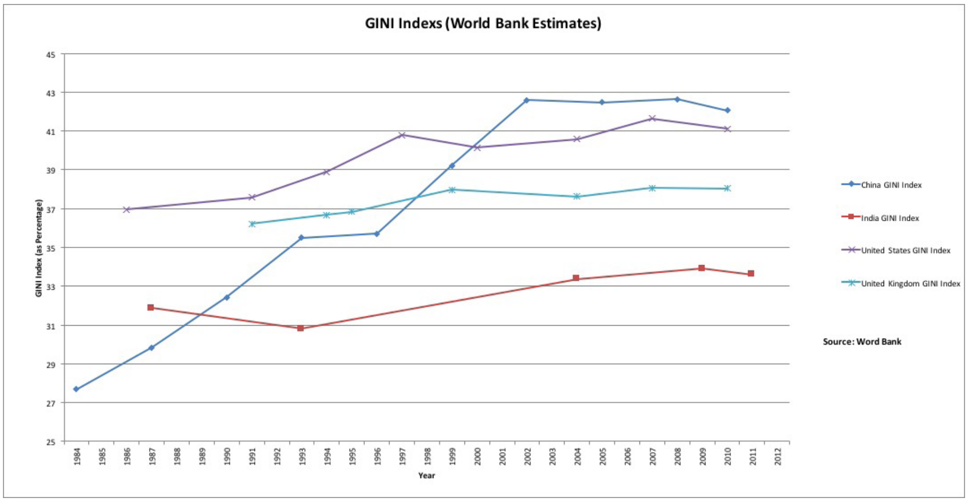
Most developing countries lack the rudimentary infrastructure and rule of law necessary to regulate and enforce basic labor, safety, and environmental standards. Industrialization and urbanization uproot traditional family life. Workers are often forced to live and work in dangerous and degrading conditions. Factory managers often prefer to hire women and children, whom they view as more compliant.[21]

The International Labour Organization (ILO) estimates that there are at least 168 million children between the ages of 4 and 17 employed worldwide, 85 million of whom have hazardous jobs. In Asia, Latin America, the Middle East, and North Africa, more than 9 percent of children work. In sub-Saharan Africa, the figure is as high as 21 percent.[22] These workers are especially vulnerable to exploitation and sexual harassment. Long hours and repetitive motion cause injuries: eyesight suffers, respiratory diseases occur, muscle coordination fails. These workers have short work lives and no social safety nets when they are discarded by their employers.

The wages paid to manufacturing workers in most developing countries are insufficient to support a family. Most surprisingly, over the last decade, prevailing wages as a percentage of living wages have not increased in most of the developing countries that are leading exporters to the United States. Figure 7 lists 15 of the leading exporters of clothing to the United States and the median wages of workers as a percentage of the living wage. It shows that in major apparel-exporting countries such as Cambodia, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, and Thailand, actual wages have declined as a percentage of the living wage. In other major exporters, including Bangladesh, India, Indonesia, Peru, Philippines, and Vietnam, wages barely increased and were less than 50 percent of a living wage in 2011.[23] Developing countries do not raise minimum wages because they fear capital would then move to other developing countries that have lower wages. Developing countries must compete for capital investment and jobs, and this competition leads countries to lower their labor standards in a self-destructive "race to the bottom."

Proponents of free trade argue that globalization is a rising tide that lifts all boats, reducing poverty and closing the gap between rich and poor countries. In fact, the last three decades have witnessed rising income inequality both within and between nation-states.[24] In the United States, for example, record corporate profits and soaring productivity have been accompanied by a more than 12 percent decline in the median income of working households from 2000 to 2011.[25] One standard measurement for income equality, the Gini coefficient, measures the extent to which the distribution of individuals' income deviates from perfect equality. The higher the Gini coefficient, the larger the disparity of income. Figure 8 tracks the Gini coefficient over the period from 1984 to 2012 for four major trading countries: China, India, the United States, and the United Kingdom. The graph demonstrates that inequality rose during this period significantly. China, in particular, had one of the highest Gini coefficients ever recorded as income for the very rich soared.

FIGURE 8



Trade growth contributes to growing income disparity in complex ways. First, only some workers in select industries participate in the global economy, and competition from other low-wage countries forces managers to hold down wages even in export industries. Second, the global economy disproportionately rewards workers who have access to the latest technology, foreign language ability, and education. High-skilled professional services reap the most benefit from trade.[26] Those at the very top of their profession—lawyers, bankers, doctors, athletes, musicians, and actors—can now reach a global market. Globalization has produced a "winner-take-all society," rewarding the people at the top of their respective field with enormous wealth.[27] Third, as manufacturing jobs in high-wage countries move to foreign countries, displaced workers are often pushed into nonunion service jobs that command lower salaries. Fourth, industries in developing countries that depend on the export of generic products, like agriculture, fish, minerals, basic steel, or yarn, face intense competition and high price volatility. By contrast, industries in industrialized countries that produce more advanced manufactured goods use patents and copyrights to prevent competitors from producing identical products. As a result, these types of goods face less competition than generic commodities, and therefore their prices tend to remain stable or increase over time. Fifth, as countries globalize, investors seek to reduce their political risk in foreign countries by buying influence, what economists call "rent-seeking behavior." In the United States rent seeking usually involves paying lobbyists and making campaign contributions; in developing countries rent seeking means paying illegal bribes. Rent seeking also contributes to greater income inequality as local government officials and foreign investors share the profits. Finally, one of the benefits of globalization has been a reduction in child mortality rates and a longer life span among the rural poor, along with an increase in the use of birth control among the urban elite. The result is that the population growth in many developing countries is skewed toward the more rural poor. This, too, contributes to the growing disparity of income.[28]

Economists would argue that the gains from trade could be redistributed through income taxes. However, the same institutions that promote open markets, like the World Bank and the International Monetary Fund, also promote lower taxes.[29] In both developing and industrialized countries, the trend over the last three decades has been toward lower income taxes.[30] During this period, the pressure for market liberalization has led to regressive tax reform in many countries, reinforcing the trend towards greater inequality.[31]

Environmental Costs

Globalization affects more than working conditions and incomes. The growth in consumption and transportation depletes natural resources and increases carbon emissions. If a factory produces toxic byproducts that pollute the air or the water, those costs fall on the public rather than on the producer. Economists would say that these are "external social costs." When the government requires the plant to clean up the damage or use technologies to reduce pollution, it forces producers to internalize these external social costs. Producers typically pass the added cost of regulation on to consumers, so that the price of their products more accurately reflects the true total cost of production. Consumers can choose to pay the higher price, buy a cheaper cleaner substitute, or reduce their consumption.

By forcing industries to internalize the real environmental costs of production, the government protects environmental values. However, in raising the price of a domestic product, the government also implicitly confers a cost advantage on foreign competitors who are not subject to the same regulatory burden. For example, in the United States, the cost of operating pollution control equipment necessary to comply with the 1990 amendments to the Clean Air Act added 5 percent to steel production costs or about $10–20 per ton.[32] If the Chinese steel industry had to meet the same environmental standards as U.S.

U.S. environmental regulations in effect have conferred a comparative advantage on Chinese steel producers.

steel companies, it would have cost Chinese companies more than $1.7 billion in 2006.[33] The point is that Chinese steel producers do not have to meet the same rigorous environmental standards, so Chinese steel is dirtier and cheaper to produce than U.S. steel. U.S. environmental regulations in effect have conferred a comparative advantage on Chinese steel producers, but this is not the kind of comparative advantage that the theory envisioned. Rather, it is a kind of *constructed* comparative advantage that distorts the pattern of trade. When U.S. consumers purchase Chinese rather than U.S. steel, the environmental cost of producing that steel falls on everyone who breathes. Chinese steel producers have no incentive to reduce their pollution given the diffuse nature of its costs.

Naturally, U.S. producers complain that regulatory costs disadvantage them in international trade. As we lower trade barriers, U.S. producers have the opportunity to relocate production to countries with less regulation. U.S. steel producers may find that it is less expensive to move plants to Latin America and ship their product back to the United States than it is to comply with U.S. environmental standards. When capital goes abroad, the United States loses jobs and tax revenues. This risk puts pressure on U.S. regulators to reduce the regulatory burden on U.S. producers. Throughout the world, regulatory authorities may be forced to lower environmental standards in order to compete in attracting and retaining capital investment. Regulatory competition leads, once again, to a race to the bottom.[34]

The Problem of Social Dumping

Social dumping occurs when a country exports goods without requiring producers to internalize the social costs of production. When countries with low labor and environmental standards export goods to a country such as the United States, they pose a threat to the importing country's own labor and environmental standards. For two decades, the United States tried to address social dumping in its free trade agreements (FTAs) by adding labor and environmental side agreements. Experience has shown, however, that these side agreements are not enforced, and labor and environmental standards have not improved in countries that have FTAs with the United States.[35] By not internalizing social costs, exporting countries are in effect subsidizing their exporters, distorting the price of their exports, and shipping their social problems overseas.

Generally, when countries export goods at unfair prices, importing countries have the right to levy antidumping duties that are designed to raise the price of the import to a fair price or "normal value." In the United States, for example, the Department of Commerce (Commerce) determines the margin of dumping by assessing what the normal value of an import should be based on a complex set of statutory calculations. If Commerce finds that there is dumping, it can impose an antidumping duty to raise the actual price of the import to the normal value.[36] The purpose of the antidumping duty is to prevent foreign exporters from gaining an unfair advantage at the expense of domestic producers. Many economists criticize these measures because they can discourage competition and may not be necessary; the same purpose could be achieved more directly by applying our antitrust laws.[37] Nevertheless, antidumping duties have been part of U.S. trade law for nearly a century, and all the member states of the WTO apply antidumping duties pursuant to the relevant provisions of GATT.[38]

There are various technical methods for determining normal value depending upon the circumstances. Commerce frequently determines the normal value by calculating what it would cost to produce that good in the exporting country. In such cases, there are many considerations that Commerce must weigh. Among other production costs, Commerce must determine the cost of labor in the foreign market. Typically, Commerce would survey the wages in a particular industry to make that calculation. But what if workers are exploited; if they are denied the right to organize or bargain collectively; if producers rely on children, prisoners, or slave labor; or if workers are forced to work in unconscionable conditions? In such cases, should Commerce apply an unfair wage, or should it consider what the cost of labor would be assuming workers were paid a fair wage? Under current law, Commerce does not consider whether wages are fair. But if instead Commerce imputed a fair wage in calculating the normal value, then the resulting antidumping duty would counter the effect of social dumping.

Level the Playing Field in Trade Agreements Act

U.S. Senate Bill 735, the Level the Playing Field in Trade Agreements Act (Level the Playing Field Act) introduced by Senators Jeff Merkley of Oregon and Tammy Baldwin of Wisconsin, would require the President to negotiate with trade partners in the TPP and TTIP for a change in the determination of the normal value in antidumping proceedings.[39] The Level the Playing Field Act would authorize Commerce to estimate the normal value based upon the assumption that a producer should pay workers an "adequate wage" and should maintain "sustainable production methods." While the current antidumping law only permits Commerce to estimate the normal value based on actual wages and does not consider environmental costs, the proposed legislation would require

Commerce to take into account the social costs of exploited workers and environmental degradation. An "adequate wage" is defined as one sufficient to meet basic needs of workers and their dependents. "Sustainable production methods" are defined to include technologies and methods necessary to provide for worker safety, conserve energy and natural resources, and control pollution and toxic waste. If exports were produced without meeting those standards, Commerce could impose an anti-dumping duty equal to the difference between the actual price of the import and the price the good would have cost if it had complied. Of course, this provision would be reciprocal, so that other states could impose the same standards on U.S. exports. In effect, the Act would impose an "anti–social dumping duty" on imports that failed to meet these minimal labor and environmental standards.

If Commerce had the authority to impose a duty against social dumping, it would give exporters an incentive to raise labor and environmental standards.

How would Commerce go about determining an adequate wage or the cost of sustainable production methods? Adequate wages vary in different countries depending on living standards. An "adequate wage" should allow a couple earning two wages with two dependents to earn at least enough to provide food, shelter, clothing, education, medical care, and retirement savings for their household. Initially, each country would decide for itself what wage was adequate based on the cost of living in that country. Similarly, each country could decide for itself the most appropriate technologies and methods for meeting sustainable standards of safety and environmental protection. To avoid uncertainty about pricing, exporters could request pre-certification from Commerce stating that they have met the requirements for adequate wages and sustainable production methods. Although the Act does not address this issue, there should be an appeals process for Commerce's determination of these values before a bi-national panel in order to resolve any conflicts.

If Commerce had the authority to impose a duty against social dumping, it would give exporters an incentive to raise labor and environmental standards. Different countries might find different methods for raising environmental standards depending on available technologies, infrastructure, and the standard of living. Admittedly, it may be that some production is so inherently toxic to the environment that many products should not be manufactured in countries that lack basic technology and infrastructure. From an economic perspective that is the same as saying that a country does not have a comparative advantage in producing that good.

If every country's exports were subject to these minimum standards for wages and sustainability as a condition for entering the U.S. market, there would be no race to the bottom. Wage rates would vary in different countries, but wages overseas would rise, and the wage differential between U.S. and foreign workers would narrow. It might be that under the TTIP, the EU would require the United States to raise wages to an adequate level in some export industries as well. Rather than trading on an artificially constructed comparative advantage, exporting countries would rely on other sources of comparative advantage. For example, it may be that if agricultural workers in the United States were paid fair wages, certain handpicked crops such as blueberries would not be economical to produce in the United States.

Would an Anti–Social Dumping Duty Be Consistent with GATT?

GATT Article II prohibits any member of the WTO from raising tariffs above the rate negotiated by the parties. Article VI allows members to impose an additional tariff equal to the margin of dumping, but that is strictly limited by the Agreement on Article VI, which defines the terms for calculating antidumping duties. That agreement probably would not permit countries to impose additional duties against social dumping. However, an anti–social dumping duty could be legally permitted if it were attached to a free trade agreement such as the TPP or the TTIP. Under Article 24 of the GATT, members of the WTO are permitted to form free trade agreements like NAFTA or TTIP. Within a free trade area, states can generally write their own rules for eliminating barriers to trade as long as their external tariffs with countries outside of the free trade area remain unchanged.

There are two arguments against levying an antidumping duty on social dumping. First, opponents argue that doing so will raise prices for U.S. consumers. In fact, the cost of labor is not a significant component of the cost of most imports. For example, labor costs, including post-production costs for shipping and retail services, typically represent less than 2 or 3 percent of the cost of most finished clothing.[40] If average wages for apparel workers in Vietnam were doubled, they would earn the equivalent of $360 monthly. It would increase the price of a pair of blue jeans manufactured there by only 2 percent, but it could transform the lives of Vietnamese workers and narrow the gap somewhat between the cost of production in the United States and abroad.[41] And if foreign workers had more disposable income, it would create new markets for U.S. products and services, helping to raise wages and employment in the United States as well.

Second, opponents argue that this is an example of the United States imposing its standards on other countries. This argument presumes that countries such as Malaysia or Vietnam are free to pay workers higher wages but prefer to pay their own workers less. This is a false argument. In reality, Vietnam does not have the latitude to raise wages or environmental standards because it must compete with exports from places like Bangladesh, Cambodia, Haiti, and India that pay workers even less.[42] If global markets like the United States and the EU required all their trade partners to pay fair wages and use sustainable production methods as a condition for entering their market tariff-free, then developing countries exporting to those markets would have an incentive to improve the lives of their citizens without losing their comparative advantage. Rather than imposing a standard on developing countries, anti–social dumping duties would empower those countries to improve living standards.

A living wage is not a U.S. standard—it is an international standard. Article I of the ILO's 2008 Declaration of Social Justice for Fair Globalization provides that states should develop measures of social protection that "are sustainable and adapted to national circumstances," including inter alia, "policies in regards to wages and earnings, hours and other conditions of work, designed to ensure a just share of the fruits of progress to all and a minimum living wage to all employed and in need of such protection."[43] An anti–social dumping duty would go a long way toward achieving a living wage for all nations.

Conclusion

Free trade is not free. The gains from trade are marginal, and the sunk costs of creative destruction can outweigh the near-term gains. Although the global economy has generated millions of new jobs in developing economies, these countries do not have the regulatory infrastructure to maintain labor, safety, and environmental standards. Workers are exploited, and production methods are not sustainable. Regulatory competition among developing countries prevents them from raising standards, which leads to the problem of social dumping.

An anti–social dumping duty could improve the conditions and livelihood of foreign workers and encourage exporting countries to adopt sustainable methods of production. At the same time, it would create new markets and stimulate world economic growth. Striking a balance between trade liberalization, fair labor standards, and sustainability, an anti–social dumping duty can serve as a model for other regional free trade agreements.

Notes

1. For example, Japanese Prime Minister Junichiro Koizumi declared that, "[T]he world [is] becom[ing] more globalized and the international society [is] becom[ing] more closely intertwined." See: "Joint Press Statement Between Japan and the Republic of the Philippines" (Tokyo, September 13, 2001), http://www.kantei.go.jp/foreign/koizumispeech/2001/0913nitihi_e.html; Similarly, see: "President Bush Nominates Henry Paulson as Treasury Secretary," White House, May 30, 2006; See generally: Thomas Friedman, *The Lexus and the Olive Tree: Understanding Globalization* (New York: Picador Publishing, 2012), 29.

2. As the U.S. Trade Representative Susan Schwab told an audience of business leaders, "[g]lobalization is here to stay." Remarks by U.S. Trade Representative Susan C. Schwab to the Business Council (Washington, DC, May 9, 2007), http://www.ustr.gov/assets/Document_Library/Transcripts/2007/May/asset_upload_file994_11262.pdf.

3. Robert B. Zoellick, "The United States and China in the Eras of Globalization" (Speech, Central University of Finance and Economics, Beijing, April 9, 2002), https://ustr.gov/archive/Document_Library/USTR_Speeches/2002/The_United_States_China_in_the_Eras_of_Globalization.html.

4. For example: Adam Ozimek, "Actually, Everyone Benefits from Free Trade," *Forbes Business*, October 17, 2015; Also see: Sen. Chuck Grassley, "Seven Principles of U.S. Trade Policy" (Remarks at Cordell Hull Institute, July 14, 2004).

5. Michael Froman, "Getting Trade Right," *Democracy* 38 (Fall 2015).

6. The same can be said for the flow of foreign investment. A country's capital account, (the net amount of foreign investment) is approximately equal and opposite to its current account (the net amount of imports and exports of goods and services). For example, if the United States has a current account deficit of $800 billion, it will have a capital account surplus of approximately the same amount. Therefore, a country's foreign investment is not increasing any faster than its trade in goods and services.

7. For example, see: David John Marotta, "The Benefits of Free Trade Agreements: The Country Always Wins," *Forbes*, March 24, 2013; Ana I. Eiras, "Why America Needs to Support Free Trade," *Heritage Foundation*, May 24, 2004.

8. The term "relative prices" refers to the price of one commodity relative to another commodity in a given country. See: David Ricardo, *On the Principles of Political Economy and Taxation* (London: John Murray, Albermarle-Street, 1817).

9. For example, see: Jagdish Bhagwati, *Free Trade Today* (Princeton, NJ: Princeton University Press, 2002), 11–33.

10. Joseph Schumpeter, *Capitalism, Socialism, and Democracy* (New York: Harper & Brothers, 1942), 83.

11. Another study suggests that if trade as a proportion of total GDP increases by 1 percent, it could increase income per capita by as much as 0.5 percent but cautions that "the effects are not estimated with precision." Jeffrey A. Frankel and David Romer, "Does Trade Cause Growth?" *American Economic Review* 89, no. 3 (1999): 379–99.

12. David Rosnick, *Gains from Trade? The Net Effects of the TPP on U.S. Wages* (Washington, DC: Center for Economic Policy Research, September 2013).

13. Joseph Francois et. al., *Reducing Trans-Atlantic Barriers to Trade and Investment: An Economic Assessment* (London: Centre for Economic Policy Research, March 2013).

14. Another broader study by economists at the University of Michigan found that if all barriers to trade in goods and services were reduced worldwide by one-third, the gain to the U.S. economy would only be 1.3 percent. Drusilla Brown, Robert M. Stern, and Alan V. Deardorff, "Computational Analysis of Multilateral Trade Liberalization in the Uruguay Round and Doha Development Round" (Research Seminar in International Economics, Discussion Paper No. 489, University of Michigan, Ann Arbor, MI: December 8, 2002) cited in James K. Jackson, *Trade Agreements: Impact on the U.S. Economy* (Washington, DC: Congressional Research Service, April 10, 2013), 17.

15. Jackson, *Trade Agreements*, 23.

16. John Maynard Keynes, *A Tract on Monetary Reform* (Princeton, NJ: Macmillan and Co., 1923), 80.

17. Bureau of Labor Statistics, "International Comparisons of Hourly Compensation Costs in Manufacturing," news release, December 19, 2012.

18. Richard McCormack, "The Plight of American Manufacturing," *American Prospect*, December 21, 2009.

19. Robert E. Scott, "The China Toll," *Economic Policy Institute*, August 23, 2012.

20. Palash Ghosh, "Despite Low Pay, Poor Work Conditions, Garment Factories Empowering Millions of Bangladeshi Women," *International Business Times*, March 25, 2014, http://www.ibtimes.com/despite-low-pay-poor-work-conditions-garment-factories-empowering-millions-bangladeshi-women-1563419; Also see: Elizabeth L. Cline, *Overdressed: The Shockingly High Cost of Cheap Fashion* (New York: Portfolio, 2013), 167, 176–180.

21. Annette Fuentes and Barbara Ehrenreich, *Women in the Global Factory* (Boston: South End Press, 1983), 26–30; Saskia Sassen, *Globalization and Its Discontents* (New York: The New Press, 1998), 111–120.

22. "Child Labour," International Labour Organization.

23. Workers Rights Consortium, *Global Wage Trends for Apparel Workers, 2001–2011* (Center for American Progress, July 2013), 18.

24. See: Thomas Piketty, *Capital in the Twenty-First Century* (Cambridge, MA: Belknap Press, 2014), 290–296, 304–330; Branko Milanovic, *The Haves and the Have-Nots* (New York: Basic Books, 2011), 99–104, 151–160.

25. Organization for Economic Co-operation and Development, *Divided We Stand: Why Inequality Keeps Rising* (OECD Publishing, 2011), 86–104; Seventy percent of college graduates saw a decline in their real income during the period from 2000-2011. See: Annie Lowrey, "The Low Politics of Low Growth," *New York Times*, January 13, 2013.

26. Robert Z. Lawrence, "Blue-Collar Blues: Is Trade to Blame for Rising U.S. Income Inequality?," *Peterson Institute for International Economics* 85 (January 2008): 60–64.

27. See generally: Robert H. Frank and Phillip J. Cook, *The Winner-Take-All Society* (New York: Penguin Books, 1995).

28. For a more detailed discussion, see: Joel R. Paul, "Do International Institutions Contribute to Economic Growth and Development?," *Virginia Journal of International Law* 286, no. 44 (2003): 308–20; For a contrary view, see: Organization for Economic Co-operation and Development, *Divided We Stand*, 109–26.

29. Jason D. Symoniak, "The Washington Consensus," *New Voices in Public Policy* 5 (Winter 2010/2011): 7–8.

30. Piketty, *Capitalism in the Twenty-First Century*, 498–508; Organizatoin for Economic Co-operation and Development, *Divided We Stand*, 262–293.

31. Jeffrey A. Freiden, *Global Capitalism: Its Fall and Rise in the 20th Century* (New York: W.W. Norton. 2007), 398–400.

32. U.S. International Trade Commission, *Steel Industry Annual Report: On Competitive Conditions in the Steel Industry and Industry Efforts to Adjust and Modernize* (Washington, DC, 1991), 3–31.

33. Alliance for American Manufacturing, *An Assessment of Environmental Regulation of the Steel Industry in China* (Alliance for American Manufacturing, March 21, 2009), 9.

34. However, it is possible to design a regulatory regime under which trade can lead to a race to the top. See, for example: Joel R. Paul, "Free Trade, Regulatory Competition and the Autonomous Market Fallacy," *Columbia Journal of European Law* 1, no. 1 (1994/95): 29–62.

35. In fact, both the U.S. Federal General Accounting Office and the Department of Labor reported that labor conditions have deteriorated in many countries since the FTA's were ratified. See: U.S. Government Accountability Office, *Four Free Trade Agreements GAO Reviewed Have Resulted in Commercial Benefits, but Challenges on Labor and Environment Remain* (U.S. Government Accountability Office, July 2009); The Deputy Director of the DOL Office of Trade and Labor Affairs acknowledged that as of 2010 his office had never brought any enforcement actions. See: Timothy J. Wedding, "The Evolution and Enforcement of Labor Provisions in U.S. Free Trade Agreements" (Paper presented at American Bar Association International Labor & Employment Law Committee, 2010 Midyear Meeting, Istanbul, May 9–13, 2010).

36. Tariff Act of 1930, Section 731 et seq., 19 U.S.C. 1673, as amended; GATT (1947) Art. VI and the 1994 Agreement on the Implementation of Article VI.